

United States District Court  
Southern District of Texas  
**FILED**

OCT 18 2016

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

David J. Bradley, Clerk of Court

MATTRESS FIRM, INC.

Plaintiff,

Civil Action 4-16-cv-2264

v.

**ANSWER OF  
JOHN BAXTER**

JOHN ROBERT BAXTER, and  
DIGI CRAFT AGENCY, LLC

Defendants.

Defendant John Robert Baxter for his Answer to the Original Complaint of Mattress Firm, Inc. states and alleges as follows:

**FIRST DEFENSE  
(Response to Specific Allegations)**

1. Denies that he has infringed Plaintiff's trademarks and denies the allegations in paragraph 1 of the Complaint.

2. Is without sufficient information to admit or deny the allegations in paragraph 2 of the Complaint.

3. Admits that Baxter is an individual but denies the remaining allegations in paragraph 3 of the Complaint.

4. Admits the allegations in paragraph 4 of the Complaint.

5. Is without sufficient information to admit or deny the allegations in paragraph 5 of the Complaint.

6. Is without sufficient information to admit or deny the allegations in paragraph 6 of the Complaint.

JB

7. Admits that he conducted business in Texas and denies the remaining allegations in paragraph 7 of the Complaint.

8. Denies the allegations in paragraph 8 of the Complaint.

9. Is without sufficient information to admit or deny the allegations in paragraph 9 of the Complaint.

10. Is without sufficient information to admit or deny the allegations in paragraph 10 of the Complaint.

11. Is without sufficient information to admit or deny the allegations in paragraph 11 of the Complaint.

12. Is without sufficient information to admit or deny the allegations in paragraph 12 of the Complaint.

13. Is without sufficient information to admit or deny the allegations in paragraph 13 of the Complaint.

14. Is without sufficient information to admit or deny the allegations in paragraph 14 of the Complaint.

15. Is without sufficient information to admit or deny the allegations in paragraph 15 of the Complaint.

16. Is without sufficient information to admit or deny the allegations in paragraph 16 of the Complaint.

17. Is without sufficient information to admit or deny the allegations in paragraph 17 of the Complaint.

18. Is without sufficient information to admit or deny the allegations in paragraph 18 of the Complaint.

19. Is without sufficient information to admit or deny the allegations in paragraph 19 of the Complaint.

20. Is without sufficient information to admit or deny the allegations in paragraph 20 of the Complaint.

21. Denies the allegations in paragraph 21 of the Complaint.

22. Is without sufficient information to admit or deny the allegations in paragraph 22 of the Complaint.

23. Is without sufficient information to admit or deny the allegations in paragraph 23 of the Complaint.

24. Admits that Digi Craft ran the website [www.mattressquote.com](http://www.mattressquote.com) until March 2013 and denies the remaining allegations in paragraph 24 of the Complaint.

25. Admits the allegations in paragraph 25 of the Complaint.

26. Admits the allegations in paragraph 26 of the Complaint.

27. Denies the allegations in paragraph 27 of the Complaint.

28. Is without sufficient information to admit or deny the allegations in paragraph 28 of the Complaint.

29. Denies the allegations in paragraph 29 of the Complaint.

30. Is without sufficient information to admit or deny the allegations in paragraph 30 of the Complaint and states that he never received a cease and desist letter.

31. Denies the allegations in paragraph 31 of the Complaint.

32. Is without sufficient information to admit or deny the allegations in paragraph 32 of the Complaint.

33. Denies the allegations in paragraph 33 of the Complaint.

34. Denies the allegations in paragraph 34 of the Complaint.
35. Denies the allegations in paragraph 35 of the Complaint.
36. Denies the allegations in paragraph 36 of the Complaint.
37. Denies the allegations in paragraph 37 of the Complaint.
38. Denies the allegations in paragraph 38 of the Complaint.
39. Denies the allegations in paragraph 39 of the Complaint.
40. Denies the allegations in paragraph 40 of the Complaint.
41. Denies the allegations in paragraph 41 of the Complaint.
42. Is without sufficient information to admit or deny the allegations in paragraph 42 of the Complaint.
43. Denies the allegations in paragraph 43 of the Complaint.
44. Denies the allegations in paragraph 44 of the Complaint.
45. Denies the allegations in paragraph 45 of the Complaint.
46. Denies the allegations in paragraph 46 of the Complaint.
47. Denies the allegations in paragraph 47 of the Complaint.
48. Denies the allegations in paragraph 48 of the Complaint.
49. Denies the allegations in paragraph 49 of the Complaint.
50. Denies the allegations in paragraph 50 of the Complaint.
51. Denies the allegations in paragraph 51 of the Complaint.
52. Denies the allegations in paragraph 52 of the Complaint.
53. Denies the allegations in paragraph 53 of the Complaint.
54. Is without sufficient information to admit or deny the allegations in paragraph 54 of the Complaint.

- 55. Denies the allegations in paragraph 55 of the Complaint.
- 56. Denies the allegations in paragraph 56 of the Complaint.
- 57. Denies the allegations in paragraph 57 of the Complaint.
- 58. Denies the allegations in paragraph 58 of the Complaint.
- 59. Denies the allegations in paragraph 59 of the Complaint.
- 60. Denies the allegations in paragraph 60 of the Complaint.
- 61. Denies the allegations in paragraph 61 of the Complaint.
- 62. Denies the allegations in paragraph 63 of the Complaint.
- 63. Denies the allegations in paragraph 63 of the Complaint.
- 64. Denies the allegations in paragraph 64 of the Complaint.
- 65. Denies the allegations in paragraph 65 of the Complaint.
- 66. Denies the allegations in paragraph 66 of the Complaint.
- 67. Denies the allegations in paragraph 67 of the Complaint.
- 68. Denies the allegations in paragraph 68 of the Complaint.
- 69. Denies the allegations in paragraph 69 of the Complaint.
- 70. Denies the allegations in paragraph 70 of the Complaint.
- 71. Denies the allegations in paragraph 71 of the Complaint.
- 72. Denies the allegations in paragraph 72 of the Complaint.
- 73. Denies the allegations in paragraph 73 of the Complaint.
- 74. Denies the allegations in paragraph 74 of the Complaint.

**SECOND DEFENSE**  
**(Failure to State a Claim)**

The Complaint fails to state a claim upon which relief can be granted.

**THIRD DEFENSE**  
**(Non-Infringement)**

Defendant has not infringed and currently does not infringe, either directly or indirectly, any valid and enforceable trademark of Plaintiff.

**FOURTH DEFENSE**  
**(Laches, Estoppel, and Waiver)**

Plaintiff's claims are barred in whole or in part by the equitable doctrines of laches, estoppel, waiver, and/or implied waiver.

**FIFTH DEFENSE**  
**(Reservation of Defenses)**

Defendant reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, and any other defenses at law or in equity that may exist now or that may be available in the future, including (but not limited to) those related to the unenforceability of any trademark claims based on inequitable conduct, based on discovery and further factual investigation in this action.

Dated: 10-16-16

  
\_\_\_\_\_  
John Baxter – PRO SE